

Security Intelligence Review Committee

2010-11

Departmental Performance Report

The Right Honourable Stephen Harper
Prime Minister of Canada



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Chair's Message

I am pleased to introduce the Departmental Performance Report of the Security Intelligence Review Committee (SIRC or the Committee) for the fiscal year 2010-11.

As Chair of the Committee, I take pride in SIRC's commitment to building and maintaining the public's trust that CSIS's activities are carried out in a lawful, effective and appropriate manner. This independent assurance to the Parliament of Canada helps to ensure that the Service remains accountable to Parliament and to the citizens of Canada.



As a reflection of that commitment, for the first time in several years, SIRC achieved near-full staffing levels by the end of the fiscal year. This investment in our human resources has allowed SIRC to undertake more comprehensive and in-depth reviews of the Canadian Security Intelligence Service's activities and to expand the Committee's efforts to engage the Canadian public in discussions on today's challenges in the world of security intelligence and where those challenges might take us as a society.

Our work is intended to provide expert advice to policymakers and lawmakers on CSIS's performance, but also to reassure Canadians that CSIS investigates threats to national security in a manner that respects Canada's core democratic values. The *Canadian Security Intelligence Service Act (CSIS Act)* continues to guide SIRC's work in assessing CSIS's performance against the mandate and authorities conferred upon it by Parliament in 1984. The Committee embraces the belief that balancing collective public safety with individual rights is a hallmark of Canada's democratic values and aspirations. It is a theme that I am confident will continue to guide SIRC's work in the future.

Honourable Arthur T. Porter, P.C., M.D.
Chair

Section I: Organizational Overview

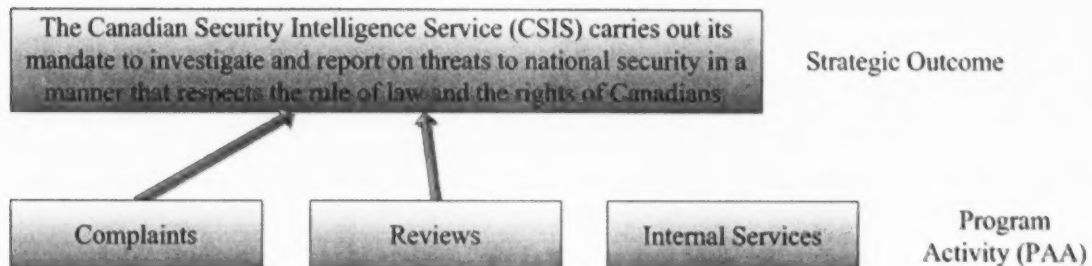
Raison d'être

The Canadian Security Intelligence Service (CSIS) performs its duties and functions in accordance with the law, policy and Ministerial direction.

Responsibilities

The Security Intelligence Review Committee (SIRC or the Committee) is a small, independent review body that reports to Parliament on the operations of the CSIS. It was established at the same time that CSIS was created, in 1984, and derives its powers from the same legislation, the *CSIS Act*.

Strategic Outcome(s) and Program Activity Architecture (PAA)



The above chart illustrates SIRC's framework of program activities, which roll up and contribute to progress toward the organization's Strategic Outcome.

Organizational Priorities

Performance/Priority Status Legend

Exceeded: More than 100 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and outputs) for the expected result or priority identified in the corresponding Report on Plans and Priorities (RPP) was achieved during the fiscal year.

Met all: 100 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and expected outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Mostly met: 80 to 99 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and expected outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Somewhat met: 60 to 79 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Not met: Less than 60 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Priority	Type ¹	Strategic Outcome(s) and/or Program Activity(ies)
Continuous improvement for reviews and complaints	Ongoing	The Canadian Security Intelligence Service (CSIS) carries out its mandate to investigate and report on threats to national security in a manner that respects the rule of law and the rights of Canadians.
Status: Met all		
<ul style="list-style-type: none"> SIRC continued to refine its research methodology by drawing on various social scientific approaches and methods, as well as other audit models. SIRC drew on an increasingly large pool of information - including comprehensive CSIS briefings, legislation and court decisions - to complete thorough, timely and topical reviews of CSIS's performance. SIRC researchers enhanced their knowledge of the security intelligence environment by attending conferences, seminars and panel discussions. In regard to complaint investigations, SIRC standardized the process whereby the parties are encouraged to make representations on SIRC's jurisdiction to investigate the complaints. 		

1. "Type" is categorized as follows: **Previously committed to**—committed to in the first or second fiscal year before the subject year of the report; **Ongoing**—committed to at least three fiscal years before the subject year of the report; and **New**—newly committed to in the reporting year of the Departmental Performance Report.

- SIRC Members including two who were appointed during the review period, received customized one-on-one legal training, to assist them in presiding over hearings in a fair and timely manner.

Priority	Type	Strategic Outcome(s) and/or Program Activity(ies)
Improved corporate management	Ongoing	Internal Services
Status: Met all		
<ul style="list-style-type: none"> • SIRC finalized both its Human Resources Authorities chart and its Financial Delegation document. • SIRC developed and finalized an internal policy on the use of acquisition cards and created a new budget-tracking tool to facilitate the collection and management of financial information. • SIRC finalized its Business Continuity Plan (BCP) and began a cycle of regular BCP updates. • SIRC completed its Investment Plan. 		

Risk Analysis

The magnitude of change that has taken place in the security and intelligence community over the past ten years, and the pace of those changes, have given rise to many challenges. These have been most visible in the O'Connor, Major and Iacobucci Commissions of Inquiry and the engagement of the courts in national security issues, as expressed in a number of landmark judicial decisions.

Questions regarding the mandate and performance of Canada's national security apparatus have been raised in public and parliamentary debates, driven partly by the high-profile judicial inquiries cited above. Calls for taking stock have come from a range of sources, including CSIS itself. SIRC continues to monitor discussion and debate about potential and ongoing government initiatives that may impact upon the nature and scope of SIRC's own reviews and complaints investigation processes.

SIRC continues to adjust its focus to account for CSIS's involvement in new operating environments. SIRC's review function has been adapting to these changes to ensure regular examination of all CSIS operations and activities.

The Federal Court is seized of two judicial review applications, one of which raises SIRC's jurisdiction to consider the *Canadian Charter of Rights and Freedoms* in the course of its investigations. The result of the federal Court ruling will have a direct impact on the future of complaints investigations by SIRC.

Given its very small staff complement, SIRC remains vulnerable to the loss of corporate memory that could result from even a minor staff turnover. As such, staff retention and cross-training remains a priority. SIRC completed this review period with a near-full complement of staff which positions it well for the next year.

Finally, as with all micro-agencies, meeting central agency reporting requirements provides constant challenges for SIRC.

Summary of Performance

2010-11 Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
2,996	3,139	2,683

2010-11 Human Resources (full-time equivalents—FTEs)

Planned	Actual	Difference
21	16	-5

Strategic Outcome: The Canadian Security Intelligence Service (CSIS) carries out its mandate to investigate and report on threats to national security in a manner that respects the rule of law and the rights of Canadians.

Performance Indicators	Targets	2010-11 Performance
Number of reviews/complaint investigations that reported CSIS activities were appropriate, effective and in compliance with the <i>CSIS Act</i> , Ministerial Direction and operational policy	No major incidents of non-compliance by CSIS	SIRC review findings and the results of complaint investigations found no major incidents of non-compliance by CSIS.

Program Activity	2009-10 Actual Spending (thousands of dollars)	2010-11 ² (thousands of dollars)				Alignment to Government of Canada Outcome
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
Reviews	836	1,626	1,626	1,654	1,039	A safe and secure Canada
Complaints	577	580	580	618	597	A transparent, accountable and responsive federal government
Total	1,413	2,206	2,206	2,272	1,636	

Program Activity	2009-10 Actual Spending (thousands of dollars)	2010-11 (thousands of dollars)			
		Main Estimates	Planned Spending	Total Authorities	Actual Spending
Internal Services	942	790	790	867	1,047

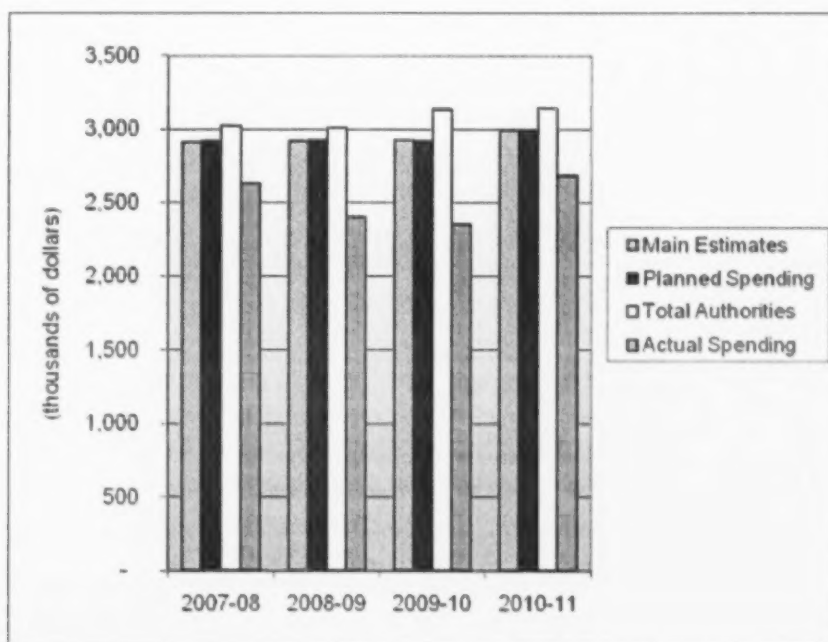
2. Commencing in the 2009-10 Estimates cycle, the resources for Program Activity: Internal Service is displayed separately from other program activities; they are no longer distributed among the remaining program activities, as was the case in previous Main Estimates. This has affected the comparability of spending and FTE information by program activity between fiscal years.

Expenditure Profile

SIRC's planning and budgetary profile has remained fairly constant, with a slight increase, over the four years outlined in the chart. However, actual spending is directly proportional with SIRC staffing levels. During the 2008-09 and 2009-10 fiscal years, the Committee struggled to fill vacancies created by departing staff and other leave without pay situations which resulted in lower than projected expenditures for those years.

Departmental Spending Trend

(thousands of dollars)



Estimates by Vote

For information on our organizational Votes and/or statutory expenditures, please see the 2010-11 Public Accounts of Canada (Volume II) publication. An electronic version of the Public Accounts is available on the Public Works and Government Services Canada website.³

3. See Public Accounts of Canada 2010, <http://www.tpsgc-pwgsc.gc.ca/recgen/bt/72-eng.html>.

Section II: Analysis of Program Activities by Strategic Outcome

Strategic Outcome

The Canadian Security Intelligence Service (CSIS) carries out its mandate to investigate and report on threats to national security in a manner that respects the rule of law and the rights of Canadians.

Program Activity: Reviews

Conduct reviews of CSIS's duties and functions to examine questions of appropriateness, adequacy and effectiveness and ensure that CSIS is acting lawfully. Develop research plans to identify reviews to be conducted throughout the year. Through a comprehensive and multifaceted program of research, examine various aspects of CSIS's operations and activities to prepare a retrospective analysis for the Committee's approval. Each review assesses CSIS's performance and may include findings and non-binding recommendations. These reviews are submitted to the Director of CSIS, the Inspector General, CSIS and in special circumstances, the Minister of Public Safety. A declassified summary is included in the Security Intelligence Review Committee's Annual Report. The objective is to provide Parliament and Canadians with "snapshots" of past CSIS operations which over time, provide a comprehensive picture of CSIS's performance.

2010-11 Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
1,626	1,654	1,039

2010-11 Human Resources (FTEs)

Planned	Actual	Difference
12.5	8	-4.5

Expected Results	Performance Indicators	Targets	Performance Status
The improvement of CSIS's performance based on the findings and recommendations that SIRC makes in its reviews.	Percentage of SIRC's review recommendations accepted by CSIS	70% of SIRC's review recommendations accepted by CSIS	Exceeded
	Frequency that key elements of CSIS activities and operations are reviewed	Key elements of CSIS activities and operations are reviewed at least once every five years	Exceeded
	Number of reviews completed as per SIRC's annual Research Plan	100% of reviews completed per SIRC's annual Research Plan	Met all

Performance Summary and Analysis of Program Activity

SIRC has developed three performance measures for the Reviews Program Activity. These measures help SIRC to track progress in achieving its expected results and strategic outcome.

The first of these measures is to follow up with CSIS to identify whether the organization has acted on recommendations made by SIRC in previous reviews. Last year, SIRC made ten recommendations, two of which were not directed at CSIS specifically. The Service accepted six recommendations.

A second performance indicator tracks whether key elements of CSIS activities are reviewed at least once every five years. Key elements include, for example, targeting, warrants, information exchanges with domestic and foreign partners and human source operations. In recent years, SIRC has undertaken reviews using a thematic approach that enables us to examine a cross-section of CSIS's activities within a single review. As a result, key elements of CSIS's activities get reviewed more frequently, in many cases annually.

In addition, SIRC Members and staff visited two CSIS regional offices. These visits provided SIRC with an opportunity to appreciate the day-to-day work of CSIS investigators and to learn about the priorities and challenges of regional offices; they also gave staff the opportunity to examine the wide range of activities undertaken at the regional level, thereby allowing SIRC to review more effectively key elements of CSIS's activities. Finally, SIRC reviewed one of CSIS's foreign stations to examine CSIS's relationships and exchanges of information with

foreign partners, its interactions with domestic partners at post, and the nature and scope of its operations abroad.

The third and final performance measure identifies whether the research plan approved by the Committee at the beginning of the fiscal year is completed in its entirety. In fiscal year 2010-11, SIRC undertook and completed seven reviews; one of which was deferred to fiscal year 2011-12 in consideration of certain operational pressures within CSIS.

In the past fiscal year, SIRC's work received much attention. For example, our Annual Report to Parliament, which is our main communications vehicle, generated media inquiries and public discussion. In response to several requests, the Chair gave a number of newspaper and radio interviews in which he expanded on the key findings and recommendations contained in SIRC's report. The Chair and Executive Director were also invited to lead a distinguished panel discussion on the challenges of national security accountability in Canada.

At the same time, SIRC expanded its public engagement activities. The Chair, Executive Director and staff participated in various discussions – with academics, practitioners, security and intelligence experts, to name a few – expressing SIRC's views on a number of Canadian national security matters.

Lessons Learned

SIRC's review function continues to adapt to the rapidly changing environment in which security intelligence operates. SIRC continuously examines its review methods and sources to ensure that the Committee fully understands the diverse range of CSIS activities and operations.

Program Activity: Complaints

Receive and inquire into complaints about CSIS brought by individuals or groups, as an independent, quasi-judicial administrative tribunal. Complaints may concern an "act or thing" done by CSIS; denials of security clearances; referrals from the Canadian Human Rights Commission; Minister's reports with respect to the *Citizenship Act*; and, complaints concerning an act or thing done by CSIS in relation to Transport Canada's Passenger Protect Program and Marine Transportation Security Clearance Program. After accepting jurisdiction, the Committee conducts pre-hearing conferences, presides over complaints hearings and prepares complaints reports which include findings and non-binding recommendations.

These reports are submitted to the Minister of Public Safety, the Director of CSIS and a vetted version is provided to the complainant. A declassified summary is included in the Security Intelligence Review Committee's Annual Report. The Committee's decisions are

intended to provide a fair and timely resolution of complaints and are subject to judicial review by the Federal Court of Canada.

2010-11 Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
580	618	597

2010-11 Human Resources (FTEs)

Planned	Actual	Difference
6.5	3	-3.5

Expected Results	Performance Indicators	Targets	Performance Status
Parties before SIRC receive a fair and timely resolution of their complaint	Percentage of SIRC complaint decisions upheld by the Federal Court on judicial review	100% of complaints decisions upheld	Met all
	Percentage of complaints where SIRC's decision on jurisdiction is made within 100 working days of receiving a formal and complete written complaint	85% of all jurisdictional decisions	Exceeded
	Percentage of complaints where SIRC's report is issued within thirty months of accepting jurisdiction	85% of all complaint reports	Mostly met

Performance Summary and Analysis of Program Activity

The purpose of the Complaints Program Activity is to receive and investigate complaints about CSIS brought forward by individuals or groups. In doing so, SIRC acts as an independent, quasi-judicial administrative tribunal pursuant to the *CSIS Act*. SIRC conducts investigations in relation to:

- complaints "with respect to any act or thing done by the Service" as described in the *CSIS Act*;

- complaints about denials of security clearances to federal government employees and contractors;
- referrals from the Canadian Human Rights Commission in cases where the complaint relates to the security of Canada; and,
- reports made pursuant to s.19 of the *Citizenship Act*.

Once a formal and complete written complaint is received, SIRC conducts a preliminary review, which may include any information in the possession of CSIS, except for Cabinet confidences. Where a complaint does not meet certain statutory requirements, SIRC declines jurisdiction and the complaint is not investigated. However, if jurisdiction is established, complaints are investigated through a quasi-judicial hearing presided over by one or more SIRC members, assisted by staff. A party in a complaint has the right to be represented by counsel and to make representations at the hearing. Pre-hearings may be conducted to establish and agree on procedures with the parties and their counsel.

As in previous years, in 2010-11, the time to resolve complaints varied in length depending on a number of factors, including the complexity of the file, the quantity of documents to be reviewed, the number of hearings and the availability of the participants.

In 2010-2011, five investigation reports were completed by SIRC and a sixth report was completed on a procedural matter. SIRC reported on the findings of its investigations and provided non-binding recommendations to the Minister of Public Safety, the Director of CSIS and, in cases involving a denial of a security clearance, to the deputy head of the federal organization involved. At the same time, Complainants were provided a copy of the redacted reports in which the national security information had been removed. Summaries of the reports, edited to protect national security and the privacy of the Complainants are included in SIRC's annual reports.

In 2010-11, two judicial review applications were commenced in the federal Court. One of these judicial review applications challenges SIRC's application of the *Canadian Charter of Rights and Freedoms* in the course of its investigations. Although the application has not yet been heard, the result of the federal Court ruling will have a direct impact on the future of complaints investigations by SIRC. In the second matter, a ruling is expected by the Court on whether the findings and recommendations of SIRC made in relation to a complaint filed pursuant to section 41 of the *CSIS Act* can be reviewed by the federal Court.

In addition to work in connection with judicial review applications, in 2010-11, SIRC's legal team continued to provide advice to the presiding SIRC member on procedural and substantive matters. SIRC's legal team also continued to cross-examine CSIS and other witnesses when, for national security reasons, evidence was heard in the absence of a Complainant.

Lessons Learned

A number of factors impact on SIRC's ability to fulfill its mandate and on the time required to resolve complaint investigations. These include the volume and complexity of complaints received and investigated, the quantity of documents reviewed, the number of hearings, the availability of participants, staff availability and the appointment of new members. SIRC will continue to strive to ensure that its investigations of complaints are conducted in a fair, thorough and timely manner. SIRC members will be provided ongoing legal training to assist them in presiding over hearings. SIRC will continue to study best practices of other tribunals and adopt measures to improve its timely and efficient completion of complaints.

Program Activity: Internal Services

Internal Services are groups of related activities and resources that are administered to support the needs of programs and other corporate obligations of an organization. These groups are: Management and Oversight Services; Communications Services; Legal Services; Human Resources Management Services; Financial Management Services; Information Management Services; Information Technology Services; Real Property Services; Materiel Services; Acquisition Services; and Travel and Other Administrative Services. Internal Services include only those activities and resources that apply across an organization and not to those provided specifically to a program.

2010-11 Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
790	867	1,047

2010-11 Human Resources (FTEs)

Planned	Actual	Difference
2	5	3

Expected Results	Performance Indicators	Targets	Performance Status
n/a	n/a	n/a	n/a

Performance Summary and Analysis of Program Activity

In 2010-11, SIRC achieved a number of important results under the Internal Services Program Activity. These results include: finalizing its Human Resources Authorities, Financial Delegation document and Business Continuity Plan (BCP); developing and finalizing an internal policy on the use of acquisition cards; and creating a new budget-tracking tool to facilitate the collection and management of financial information.

In addition, in 2010-11, SIRC underwent an internal restructuring of its administrative positions.

No formal expected results or performance indicators had been established for this Program Activity at the time of the writing of the 2010-11 Reports on Plans and Priorities.

Lessons Learned

In addition to finalizing a number of Internal Services deliverables in 2010-11, SIRC underwent an internal restructuring of its support positions. The resulting structure combines all general support functions into one group, facilitates cross-training and improves the provision of internal services within the organization. As such, in 2010-11, SIRC improved the alignment of its corporate resources and increased its flexibility as an organization.

Section III: Supplementary Information

Financial Highlights

Condensed Statement of Financial Position

At March 31, 2011 (in thousands of dollars)

	% change	2011	2010
ASSETS			
Assets	118%	321	147
Total assets	118%	321	147
LIABILITIES AND EQUITY OF CANADA			
Liabilities	20%	701	585
Equity of Canada	13%	-380	-438
Total liabilities and equity of Canada	118%	321	147

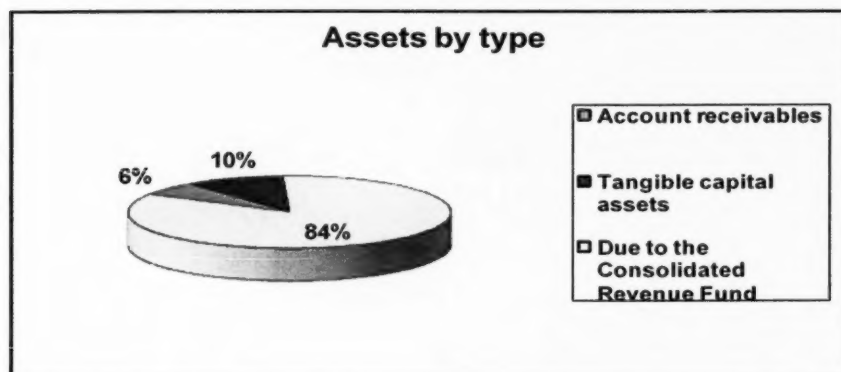
Condensed Statement of Operations

For the year ended March 31, 2011 (in thousands of dollars)

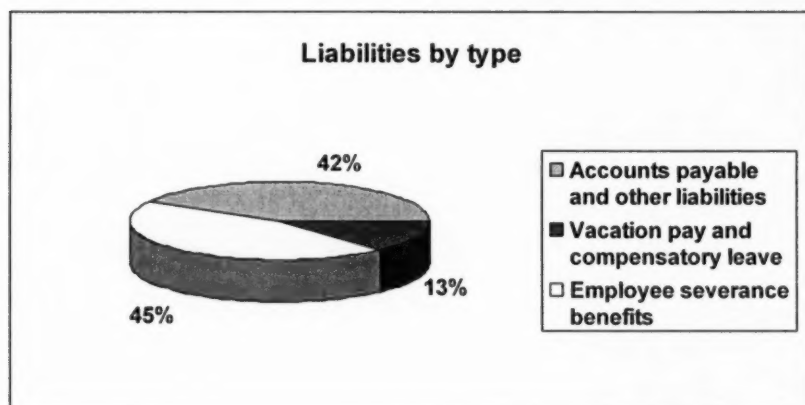
	% change	2011	2010
EXPENSES	21%	3,113	2,576
NET COST OF OPERATIONS	21%	3,113	2,576

Total net cost of operations was \$3,113 thousand at the end of 2010-11, an increase of \$537 thousand from fiscal year 2009-10. The increase is mainly due to additional staff being brought on strength in order to fill existing vacancies. By the middle of fiscal year 2010-11, the Security Intelligence Review Committee (SIRC) was near full capacity with regard to staffing levels, which resulted in an increase in salary related expenses such as employee benefit plan, allowances for severance pay and vacation pay. Additionally, the departure of two staff members resulted in payouts of severance pay which impacted on SIRC's expenses in 2010-11.

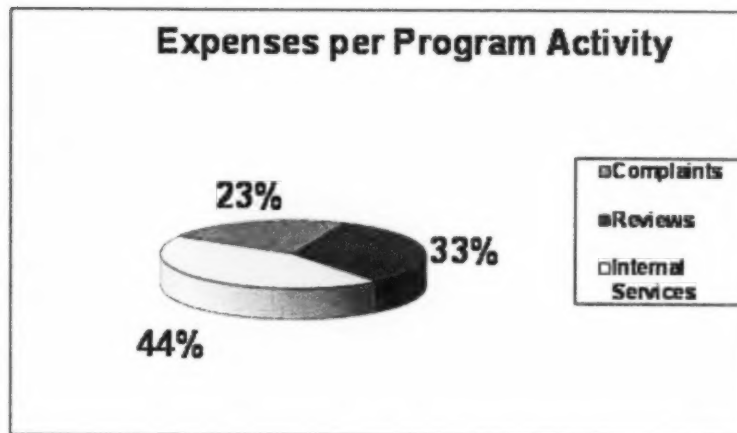
Financial Highlights Charts and/or Graphs



Total assets were \$321 thousand at the end of fiscal year 2010-11, an increase of \$174 thousand from 2009-10. The increase of assets is mainly due to the Due from Consolidated Revenue Fund. The increase in the Due from Consolidated Revenue Fund in fiscal year 2010-11 is due to higher accounts payable, accrued liabilities with other government departments and accrued salary and wages 2010-11. The Due from Consolidated Revenue Fund is a new Treasury Board Secretariat requirement for 2010-11 year-end financial statements and it represents the net amount of cash required by the department to process internal and external accounts payable and receivable. In previous years, amounts related to this new account were included in the Equity of Canada account.



Total liabilities were \$701 thousand at the end of 2010-11, an increase of \$116 thousand from fiscal year 2009-10. The increase was mainly due to SIRC reaching near-full staffing levels in 2010-11 and an increase in salary related liabilities such as severance pay and vacation pay.



Total expenses for the SIRC were \$3,113 thousand for fiscal year 2010-11 compared to \$2,576 thousand for fiscal year 2009-10.

SIRC has three key program activities (PA) related to its strategic outcome: the Review Program Activity, the Complaints Program Activity and the Internal Services Activity. The 2010-11 total expenses per activity are described below:

\$1,102 (35%) was spent under the Review Program Activity, \$552 (18%) was spent under the Complaints Program Activity and \$1,459 (47%) was spent under Internal Services.

The slight decrease in the level of expenses in fiscal year 2010-11 for the Complaints Program Activity from fiscal year 2009-10 (\$601 thousand) is mainly due to an internal realignment of human resources between the Complaints Program Activity and Internal Services.

The increase in the level of expenses in fiscal year 2010-11 for the Review Program Activity from fiscal year 2009-10 (\$848 thousand) is mainly due to the increase in salary expenses related to the additional staff being brought on strength to fill pre-existing staffing shortages.

The increase in the level of expenses for fiscal year 2010-11 for the third program activity, Internal Services, from fiscal year 2009-10 (\$1,127 thousand) is as a result of the internal realignment of human resources between the Complaints Program Activity and Internal Services, the addition of staff to fill existing vacancies and the acquisition of computer equipment which had reached its maximum life expectancy.

Financial Statements

SIRC's financial statements can be found at the following link: <http://www.sirc-csars.gc.ca/opbapb/fstefi/index-eng.html>

Section IV: Other Items of Interest

Organizational Contact Information

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Legislation Administered

Canadian Security Intelligence Service Act